

§ 411.62

(d) Care provider facility staff must report any sexual abuse and sexual harassment allegations to the designated State or local services agency under applicable mandatory reporting laws in addition to law enforcement and the State and local licensing agency.

(e) Upon receiving an allegation of sexual abuse or sexual harassment that occurred while a UC was in ORR care, the care provider facility head or his or her designee must report the allegation to the alleged victim's parents or legal guardians, unless ORR has evidence showing the parents or legal guardians should not be notified or the victim does not consent to this disclosure of information and is 14 years of age or older and ORR has determined the victim is able to make an independent decision.

(f) Upon receiving an allegation of sexual abuse or sexual harassment that occurred while a UC was in ORR care, ORR will share this information with the UC's attorney of record within 48 hours of learning of the allegation unless the UC does not consent to this disclosure of information and is 14 years of age or older and ORR has determined the victim is able to make an independent decision.

§ 411.62 Protection duties.

If a care provider facility employee, volunteer, or contractor reasonably believes that a UC is subject to substantial risk of imminent sexual abuse or sexual harassment, he or she must take immediate action to protect the UC.

§ 411.63 Reporting to other care provider facilities and DHS.

(a) Upon receiving an allegation that a UC was sexually abused or sexually harassed while at another care provider facility, the care provider facility whose staff received the allegation must immediately notify ORR, but no later than 24 hours after receiving the allegation. ORR will then notify the care provider facility where the alleged abuse or harassment occurred.

(b) The care provider facility must document that it provided such notification to ORR.

(c) The care provider facility that receives such notification, to the extent that such care provider facility is cov-

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ered by this part, must ensure that the allegation is referred for investigation in accordance with these standards.

(d) Upon receiving an allegation that a UC was sexually abused or sexually harassed while in DHS custody, the care provider facility whose staff received the allegation must immediately notify ORR, but no later than 24 hours after receiving an allegation. ORR will then report the allegation to DHS in accordance with DHS policies and procedures.

(e) The care provider facility must document that it provided such notification to ORR.

§ 411.64 Responder duties.

(a) Upon learning of an allegation that a UC was sexually abused while in an ORR care provider facility, the first care provider facility staff member to respond to the report must be required to:

(1) Separate the alleged victim, abuser, and any witnesses;

(2) Preserve and protect, to the greatest extent possible, any crime scene until the appropriate authorities can take steps to collect any evidence;

(3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

(4) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged abuser(s) and/or witnesses, as necessary, do not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

(b) [Reserved]

§ 411.65 Coordinated response.

(a) Care provider facilities must develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, outside investigators,

victim advocates, and care provider facility leadership in response to an incident of sexual abuse to ensure that victims receive all necessary immediate and ongoing medical, mental health, and support services and that investigators are able to obtain usable evidence. ORR must approve the written institutional plan.

(b) Care provider facilities must use a coordinated, multidisciplinary team approach to responding to sexual abuse.

(c) If a victim of sexual abuse is transferred between ORR care provider facilities, ORR must, as permitted by law, inform the receiving care provider facility of the incident and the victim's potential need for medical or social services.

(d) If a victim of sexual abuse is transferred from an ORR care provider facility to a non-ORR facility or sponsor, ORR must, as permitted by law, inform the receiving facility or sponsor of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

§ 411.66 Protection of UCs from contact with alleged abusers.

ORR and care provider facility staff, contractors, and volunteers suspected of perpetrating sexual abuse or sexual harassment must be suspended from all duties that would involve or allow access to UCs pending the outcome of an investigation.

§ 411.67 Protection against retaliation.

Care provider facility staff, contractors, volunteers, and UCs must not retaliate against any person who reports, complains about, or participates in an investigation of alleged sexual abuse or sexual harassment. For the remainder of the UC's stay in ORR custody following a report of sexual abuse or sexual harassment, ORR and the care provider facility must monitor to see if there are facts that may suggest possible retaliation by UCs or care provider facility staff and must promptly remedy any such retaliation. ORR and the care provider facility must also monitor to see if there are facts that may suggest possible retaliation by UCs or care provider facility staff against any staff member, contractor,

or volunteer and must promptly remedy any such retaliation. Items ORR and the care provider facility should monitor include but are not limited to any UC disciplinary reports, housing or program changes, negative performance reviews, or reassignments of staff. Care provider facilities must discuss any changes with the appropriate UC or staff member as part of their efforts to determine if retaliation is taking place and, when confirmed, immediately takes steps to protect the UC or staff member.

§ 411.68 Post-allegation protection.

(a) Care provider facilities must ensure that UC victims of sexual abuse and sexual harassment are assigned to a supportive environment that represents the least restrictive housing option possible to keep the UC safe and secure, subject to the requirements of § 411.42.

(b) The care provider facility should employ multiple protection measures to ensure the safety and security of UC victims of sexual abuse and sexual harassment, including but not limited to: Housing changes or transfers for UC victims and/or abusers or harassers; removal of alleged UC abusers or harassers from contact with victims; and emotional support services for UCs or staff who fear retaliation for reporting sexual abuse or sexual harassment or cooperating with investigations.

(c) A UC victim may be placed on one-on-one supervision in order to protect the UC in exigent circumstances. Before taking the UC off of one-on-one supervision, the care provider facility must complete a re-assessment taking into consideration any increased vulnerability of the UC as a result of the sexual abuse or sexual harassment. The re-assessment must be completed as soon as possible and without delay so that the UC is not on one-on-one supervision longer than is absolutely necessary for safety and security reasons.